

as apply under section 401 of the Congressional Accountability Act of 1995 [2 U.S.C. 1401] (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act [2 U.S.C. 1311 et seq.].

#### **(4) Regulations to implement section**

##### **(A) In general**

The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this section.

##### **(B) Agency regulations**

The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

##### **(C) Coordination**

The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

#### **(5) Applicability**

Notwithstanding any other provision of this section, the term “covered employee” shall not, for purposes of this section, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5).

#### **(6) Effective date**

Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(Pub. L. 105–339, §4(c), Oct. 31, 1998, 112 Stat. 3185.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

The Congressional Accountability Act of 1995, referred to in par. (3)(B), is Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3. Part A (§§201–207) of title II of the Act is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

##### **CODIFICATION**

Section was enacted as part of the Veterans Employment Opportunities Act of 1998, and not as part of the Congressional Accountability Act of 1995 which comprises this chapter.

### **§ 1316b. Rights and protections relating to criminal history inquiries**

#### **(a) Definitions**

In this section, the terms “agency”, “criminal history record information”, and “suspension” have the meanings given the terms in section 9201 of title 5, except as otherwise modified by this section.

#### **(b) Restrictions on criminal history inquiries**

##### **(1) In general**

##### **(A) In general**

Except as provided in subparagraph (B), an employee of an employing office may not request that an applicant for employment as a covered employee disclose criminal history record information if the request would be prohibited under section 9202 of title 5 if made by an employee of an agency.

##### **(B) Conditional offer**

For purposes of applying that section 9202 under subparagraph (A), a reference in that section 9202 to a conditional offer shall be considered to be an offer of employment as a covered employee that is conditioned upon the results of a criminal history inquiry.

##### **(2) Rules of construction**

The provisions of section 9206 of title 5 shall apply to employing offices, consistent with regulations issued under subsection (d).

#### **(c) Remedy**

##### **(1) In general**

The remedy for a violation of subsection (b)(1) shall be such remedy as would be appropriate if awarded under section 9204 of title 5 if the violation had been committed by an employee of an agency, consistent with regulations issued under subsection (d), except that the reference in that section to a suspension shall be considered to be a suspension with the level of compensation provided for a covered employee who is taking unpaid leave under section 1312 of this title.

##### **(2) Process for obtaining relief**

An applicant for employment as a covered employee who alleges a violation of subsection (b)(1) may rely on the provisions of subchapter IV (other than section 1407 or 1408 of this title, or a provision of this subchapter that permits a person to obtain a civil action or judicial review), consistent with regulations issued under subsection (d).

#### **(d) Regulations to implement section**

##### **(1) In general**

Not later than 18 months after December 20, 2019, the Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

##### **(2) Parallel with agency regulations**

The regulations issued under paragraph (1) shall be the same as substantive regulations issued by the Director of the Office of Personnel Management under section 2(b)(1) of the Fair Chance to Compete for Jobs Act of 2019<sup>1</sup> to implement the statutory provisions

<sup>1</sup> See References in Text note below.

referred to in subsections (a) through (c) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

**(e) Effective date**

Section 1302(a)(12) of this title and subsections (a) through (c) shall take effect on the date on which section 9202 of title 5 applies with respect to agencies.

(Pub. L. 104–1, title II, §207, as added Pub. L. 116–92, div. A, title XI, §1122(d)(1)(C), Dec. 20, 2019, 133 Stat. 1608.)

**Editorial Notes**

**REFERENCES IN TEXT**

This subchapter, referred to in subsec. (c)(2), was in the original “this title”, meaning title II of Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Section 2(b)(1) of the Fair Chance to Compete for Jobs Act of 2019, referred to in subsec. (d)(2), probably means section 1122(b)(1) of Pub. L. 116–92, which relates to regulations and is set out as a note under section 9201 of Title 5, Government Organization and Employees. Section 1122 of Pub. L. 116–92 is the second section of the Fair Chance to Compete for Jobs Act of 2019, which was enacted as subtitle B of title XI of Pub. L. 116–92.

**PRIOR PROVISIONS**

A prior section 207 of Pub. L. 104–1 was renumbered section 208 and is classified to section 1317 of this title.

**§ 1317. Prohibition of intimidation or reprisal**

**(a) In general**

It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

**(b) Remedy**

The remedy available for a violation of subsection (a) shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a).

(Pub. L. 104–1, title II, §208, formerly §207, Jan. 23, 1995, 109 Stat. 13; renumbered §208, Pub. L. 116–92, div. A, title XI, §1122(d)(1)(B), Dec. 20, 2019, 133 Stat. 1608.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

**PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER AMERICANS WITH DISABILITIES ACT OF 1990**

**§ 1331. Rights and protections under Americans with Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations**

**(a) Entities subject to this section**

The requirements of this section shall apply to—

- (1) each office of the Senate, including each office of a Senator and each committee;
- (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;
- (3) each joint committee of the Congress;
- (4) the Office of Congressional Accessibility Services;
- (5) the Capitol Police;
- (6) the Congressional Budget Office;
- (7) the Office of the Architect of the Capitol (including the Botanic Garden);
- (8) the Office of the Attending Physician;
- (9) the Office of Congressional Workplace Rights;
- (10) the Office of Technology Assessment; and
- (11) the Library of Congress.

**(b) Discrimination in public services and accommodations**

**(1) Rights and protections**

The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a).

**(2) Definitions**

For purposes of the application of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term “public entity” means any entity listed in subsection (a) that provides public services, programs, or activities.

**(c) Remedy**

The remedy for a violation of subsection (b) shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 1311 of this title.

**(d) Available procedures**

**(1) Charge filed with General Counsel**

A qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) by an entity listed in subsection (a), may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.